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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/221,656	12/23/98	YAMAMOTO	T

EXAMINER	
POINVIL,F	
ART UNIT	**PAPER NUMBER**
2761	8

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DATE MAILED: 09/10/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.	Applicant(s)
09/221,656	YAMAMOTO et al.
Examiner	**Group Art Unit**
Frantzy Poinvil	2761

☒ Responsive to communication(s) filed on *Dec 23, 1998* .

☐ This action is **FINAL.**

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire *3* month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) *8-73* is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) *8-73* is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐approved ☐disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____ .

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____ .

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). *2 and 6*

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter or any new and useful improvement thereof, may obtain a patent therefore, subject to the conditions and requirements of this title.

Claims 33-73 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter, particularly, an abstract idea.

The Examiner notes that the disclosed invention is within the technological arts. The claimed invention is also noted not to be a computer program, data structure, a natural phenomenon, a non-descriptive material per se. The claimed invention does not include a series of steps to be performed by a computer. The claimed invention also is not a product for performing a process, nor is it a specific machine or manufacture. The claimed invention is not a specific tangible machine or process for facilitating a business transaction. Claims 33-51 do not appear to correspond to a specific machine or manufacture disclosed within the instant specification and thus encompass any product of the class configured in any manner to perform the underlying process. Claims 33-73 do not appear to correspond to a specific machine or manufacture, and thus encompass any product of the class configured in any manner to perform the underlying process. The claimed invention of claims 33-73 also do not include a post-computer process activity or a pre-computer process activity. Thus, no physical transformation is performed, no practical application in the technological art is found. Consequently, claims 33-73

are analyzed based upon the underlying process, and are thus rejected as being directed to a non-statutory process.

Double Patenting

2. The following non-statutory double patenting rejection is based on a judicially created doctrine grounded in the public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the right to exclude granted by a patent. In re Sarett, 327 F.2d 1005, 140 USPQ 474 (CCPA 1964); In re Schneller, 397 F.2d 350, 158 USPQ 210 (CCPA 1968); In re White, 405 F.2d 904, 160 USPQ 644 (CCPA 1969); In re Vogel, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); In re Van Ornam, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); In re Longi, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 985); and In re Goodman, 29 USPQ 2d 2010 (Fed. Cir. 1993).

Claims 8-33 and 52 are rejected under the Judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 5-9, 17-20 and 36 of US Patent No. 5,854,746. Although the conflicting claims are not identical, they are not patentably distinct from each other because they recite means or steps that are substantially the same and that would have been obvious to one of ordinary skill in the art.

Claims 8 and 16 of the instant application essentially repeat all the features listed in claim 1 of the patent. The only obvious difference between the application and the patent is that claims 8

and 16 of the present application is a labelling difference. The claimed point of sales terminals correspond to the sales information collecting units at plurality of sales outlets as found in the patent. Thus, these mere obvious differences are trivial changes that would have been obvious to a skilled artisan.

Claims 9 and 18-21 are equivalents of respective claims 5-9 of US Patent No. 5,854,746.

As per claim 10, note claim 2 of the patent.

Claims 22 and 26, and 28-29 are rejected under the obvious under the Judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of US Patent No. 5,854,746 under the same reasoning applied above to claims 8 and 16.

Claims 33 and 52 are rejected under the obvious under the Judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 17-20 of US Patent No. 5,854,746 with the mere obvious labelling differences.

Claims 11-12, 24-25 and 30-31 would have been obvious to the skilled artisan for instant communications purposes.

As per claim 13, locations where the goods are sold are equivalent to the sales outlets of cliam 1.

As per claims 14 and 15, having respective computer programs for perfoming these claimed functions would have been obvious to the skilled artisan so that desired productions are easily and fastly produced.

As per claims 17, note claim 3 of the patent.

As per claims 23 and 32, it would have been obvious to the skilled artisan to set desired speeds and power levels for a plurality of machines used to manufacuture the products and to control a plurality of drive control units for controlling manufacture of the products in order to timely manufacture and deliver the desired quantity of products.

As per claim 26, note claim 1 of the patent.

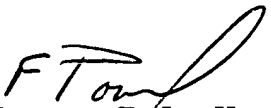
As per claim 27, note claim 1 of the patent.

Conclusion

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frantzy Poinvil, whose telephone number is (703) 305-9779. The examiner can normally be reached on Monday through Friday from 8:30 AM to 5:00 PM.
The fax phone number for this Art Unit is (703) 305-0040.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-3900.

FP
29Aug99



Frantzy Poinvil
Patent Examiner
Art Unit 2761